

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

YONG GUO ,

Petitioner,

v.

NATALIE ASHER, et al.,

Respondents.

CASE NO. 2:20-cv-01613-RSM-BAT

ORDER DECLINING TO ADOPT  
REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Brian A. Tsuchida. Dkt. #15.

This habeas matter was filed on October 28, 2020, including a request for a temporary restraining order. Dkt. #1. Respondents’ Answer and opposition to Petitioner’s Motion for a Temporary Restraining Order was filed on November 5, 2020. Dkt. #6. After the correction of an IFP deficiency the petition and Motion were added to the docket on November 17, 2020. Dkt. #11. Judge Tsuchida then filed an Order noting Respondent’s Answer for consideration on December 4, 2020, and setting a November 30 deadline for what was essentially a reply brief from Petitioner. Dkt. #13. On November 25, 2020, Petitioner filed a single page of “additional evidence” but did not address the Answer/opposition. Dkt. #14. On December 4, 2020, Judge

1 Tsuchida issued the instant R&R recommending denial of Petitioner's TRO and dismissal of this  
2 case. Dkt. #15.

3 Now Respondents notify the Court that they may have failed to mail a copy of their  
4 Answer/opposition to Petitioner back in November and request that "this Court allow Petitioner  
5 additional time to respond to Federal Respondents' papers in case an oversight occurred." Dkt.  
6 #16. Petitioner's Objections to the R&R indicate he failed to receive a timely copy of the  
7 Answer/opposition. Dkt. #17 at 1.

8 Given all of the above, the Court believes an extension of time for Petitioner to file a  
9 reply brief in support of his petition/TRO may be warranted and that it would be improper to  
10 adopt the R&R as drafted. The Court will refer this matter back to Judge Tsuchida to address  
11 this issue.

12 Having reviewed the relevant briefing and the remainder of the record, the Court hereby  
13 DECLINES to adopt the pending Report and Recommendation, Dkt. #15. The Court DIRECTS  
14 this matter to be referred back to Judge Tsuchida to address the issue of allowing further briefing  
15 from Petitioner. The Clerk shall provide copies of this Order to the parties.

16 Dated this 18<sup>th</sup> day of December, 2020.

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20 RICARDO S. MARTINEZ  
21 CHIEF UNITED STATES DISTRICT JUDGE  
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